

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

CHAD CANADA,

Plaintiff,

v.

GERALD MILLER, McMinn County Police
Officer; STEVE FRISBIE, McMinn County
Police Officer; KAY STANSBERRY,
McMinn County Jail Nurse; JANE DOE,
McMinn County Police Officer; MARCUS
KING, Inmate at McMinn County Justice
Center; CITY OF ATHENS; All Defendants
are Sued in Their Official and Individual
Capacities,

Defendants.

No. 1:04-cv-156

Mattice/Carter

MEMORANDUM

This is a *pro se* civil rights action brought pursuant to 42 U.S.C. §1983. Presently before the Court is defendants' motion to dismiss for plaintiff's failure to prosecute or otherwise comply with the orders of this Court (Court File No. 60). Specifically, defendants assert they filed a "Notice to Take Deposition" of plaintiff and sent plaintiff the notice by certified mail, return receipt requested, on November 8, 2005. The envelope reflects the U.S. Postal Service gave plaintiff notice of the certified parcel on November 10, 16, and 25, 2005 (Court File No. 60, Exhibit 1). Defendants assert the certified letter was returned and marked as "Unclaimed" by the Postal Service on or about December 3, 2005, and plaintiff failed to appear for the deposition on November 22, 2005, at 10:00 a.m.

Upon receipt of defendants' motion to dismiss (Court File No. 60) this Court issued a Show Cause Order directing plaintiff to show cause within ten (10) days of the Court's January 20, 2006 Order why this action should not be dismissed (Court File No. 62).

Canada has failed to respond to the Court's order. Consequently, the Court finds Canada has failed to comply with its order. Rule 41(b) of the Federal Rules of Civil Procedure allows a court to dismiss an action *sua sponte* for failure to prosecute or for failure to comply with the federal rules or any court order. This authority is based on the Court's inherent authority to control its docket and prevent undue delays in the disposition of pending cases.

Therefore, this action will be **DISMISSED** for Canada's failure to prosecute and to comply with the orders of this Court. FED. R. CIV. P. 41(b); *Jourdan v. Jabe*, 951 F.2d 108 (6th Cir. 1991).

A judgment will enter.

s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE